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Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr.M.P. No. 106 /2006

APPLICANT :- **P. SHIV PRASAD RAO** S/o P.J. Rao, aged about 48 years, by caste Christian, R/o Devrikhurd, Bilaspur, P.S. Torwa, District: Bilaspur. At present residing at Mission Road Champa, P.S. Champa, District :Janjgir-Champa [C.G.]

4352/06
Filed on 06/10/06
by Shri Gurudev Advocate
R. to D.R. (J) 06/10/06

[Accused in Criminal Case No. 902/2006]

VERSUS

RESPONDENT :- **STATE OF CHHATTISGARH**
Through - Police Station- Champa, District :Janjgir-Champa [C.G.].

AN APPLICATION U/S 482 OF CODE OF CRIMINAL PROCEDURE FOR QUASHING OF CRIMINAL PROCEEDINGS WITH REGARD TO CHARGE OF AN ADDITIONAL OFFENCE FRAMED U/S 3[1][II] OF SCHEDULED CASTE AND SCHEDULED TRIBES [PREVENTION OF ATROCITIES], ACT 1989 BY THE COURT OF LEARNED CHIEF JUDICIAL MAGISTRATE, JANJGIR, IN CRIMINAL CASE NO. 902/2006.

XI-HC-22

APR (62)

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21.12.06

आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21.12.2006

Shri Gurudev Sharan, counsel for the petitioner.

Heard on admission.

Order passed as follows:

ORAL ORDER

(21.12.2006)

Sunil Kumar Sinha, J.

By way of this petition filed under Section 482 of Cr.P.C., the petitioner has challenged the validity of action taken by the Magistrate, by which, while hearing the matter under the provisions of I.P.C., learned Magistrate noticed that on the basis of material produced before him, prima facie, an offence under Section 3 (1) (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also made out and in view of the above, in the capacity of committal Court, he committed the matter for trial to the concerned Special Court.

Learned counsel for the petitioner argues that as per documents filed by the prosecution, the prosecutrix namely Ku. Nisha Shalini Murmur has been shown to be belonging to *Santal* Caste, which has been declared as the Scheduled Tribe in the State of Bihar. He refers to ***The Constitution (Scheduled Tribes) Order, 1950***, in which under Part-III of schedule, which relates to Bihar, Caste *Santal* has been shown to be a Scheduled Tribe. His submission is that since the offence took place in the State of Chhattisgarh, therefore, according to the aforesaid Order, 1950 the

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

said caste does not come as Scheduled Tribe for this area, therefore, an offence of atrocity would not be made out.

This argument appears to be totally misconceived. On perusal of Section 2 (c) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the Act) "Scheduled Castes and Scheduled Tribes" have been described which says that 'Scheduled Castes and Scheduled Tribes' shall have the meanings assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution. Clause (25) of Article 366 defines 'Scheduled Tribes' which means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution. The Constitution (Scheduled Tribes) Order, 1950 contains in its schedule Part-III about the State of Bihar and, as referred to above, under entry 28 theirof Caste *Santal* has been mentioned.

In view of the above and also in view of the caste certificate of the complainant, in which she has been shown to be belonging to *Santal* caste, it cannot be said that there was no prima facie evidence to hold that the victim/complainant was a member of Scheduled Tribe for the purposes of this Act on the ground that the offence is said to have been committed in the State of Chhattisgarh. She would be deemed to be a Scheduled Tribe for the purposes of this Act for entire area to which the Act applies by virtue of sub-section (2) of Section 1 of the said Act, which says

(पीछे देखिये)

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that "it extends to the whole of India except the State of Jammu & Kashmir".

The normal rule of interpretation is that the words used by the Legislature are generally a safe guide to its intention. No principle of interpretation of Statutes is more firmly settled than the rule that the Court must deduce the intention of Parliament from the words used in the Act. Courts in interpreting Statutes must not interpolate or legislate. It is well settled that a Legislature does not waste words without any intention, and every word that is used by the Legislature must be given its due import and significance. It is well settled that whenever the Legislature uses certain terms or expressions of well known legal significance or connotation the Courts must interpret them as used or understood in the popular sense. The rule of construction by reference to *contemporanea expositio* is a well established rule for interpreting a Statute by reference to the exposition it has received from contemporary authority, though it must give way where the language of the Statute is plain and unambiguous. Even if two interpretations are permissible, that which furthers the beneficial object should be preferred.

The main object of the Act is to prevent the commission of offences of atrocities against the member of Scheduled Castes and Scheduled Tribes to which the Act applies and if such a view is taken, the whole object of the Act would be frustrated.

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There may be a case in which a person belonging to Scheduled Caste or Scheduled Tribe and residing in a particular area may have gone out of that area for some casual work and may have been by the victim of the atrocities and if such a view is taken that he/she is enlisted as the Scheduled Caste or Scheduled Tribe for a particular area, therefore, the provisions of Act would not be applied to him/her, he/she would not be getting benefit of Act and the whole object of the Act, which is to prevent commission of offence of atrocities against such person, would render meaningless and redundant. No Statute having simple expression can be read like this.

In view of the above, I do not find any merits in this petition and the same is dismissed at the motion stage.

Sd/-
Sunil Kumar Sinha
Judge

vatti

(पीछे देखिये)